

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 640

Introduced by Jensen, 20; Brown, 6; Dw. Pedersen, 39; Thompson, 14;
at the request of the Governor

Read first time January 16, 2001

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Juvenile Services Act; to amend sections
2 43-2401 to 43-2406, 43-2408, 43-2409, 43-2412, and
3 43-3503, Revised Statutes Supplement, 2000; to define
4 terms; to rename grants; to provide for a county aid
5 program; to change and provide powers and duties; to
6 state intent; to harmonize provisions; to provide an
7 operative date; to repeal the original sections; and to
8 declare an emergency.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-2401, Revised Statutes Supplement,
2 2000, is amended to read:

3 43-2401. Sections 43-2401 to 43-2413 and sections 5 and
4 6 of this act shall be known and may be cited as the Juvenile
5 Services Act.

6 Sec. 2. Section 43-2402, Revised Statutes Supplement,
7 2000, is amended to read:

8 43-2402. For purposes of the Juvenile Services Act:

9 (1) Coalition means the Nebraska Coalition for Juvenile
10 Justice established pursuant to section 43-2411;

11 (2) Commission means the Nebraska Commission on Law
12 Enforcement and Criminal Justice;

13 (3) Commission Grant Program means grants provided to
14 eligible applicants under section 43-2406;

15 (4) County Juvenile Services Aid Program means aid to
16 counties provided under section 6 of this act;

17 (5) Eligible applicant means a community-based agency or
18 organization, political subdivision, school district, federally
19 recognized or state-recognized Indian tribe, or state agency
20 necessary to comply with the federal act;

21 ~~(4)~~ (6) Federal act means the Juvenile Justice and
22 Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601 et
23 seq.;

24 ~~(5)~~ (7) Juvenile means a person who is under eighteen
25 years of age; and

26 (8) Office of Juvenile Services means the Office of
27 Juvenile Services created in section 43-404.

28 ~~(6)~~ Plan means the comprehensive juvenile services plan

1 required pursuant to section 43-2405, and

2 (7) Program means those programs and services described
3 in section 43-2404.

4 Sec. 3. Section 43-2403, Revised Statutes Supplement,
5 2000, is amended to read:

6 43-2403. The Legislature hereby finds that the
7 incarceration of juveniles in adult jails, lockups, and
8 correctional facilities is contrary to the best interests and
9 well-being of juveniles and frequently inconsistent with state and
10 federal law requiring intervention by the least restrictive method.
11 The Legislature further finds that the lack of available
12 alternatives within local communities is a significant factor in
13 the incarceration of juveniles in such adult jails, lockups, and
14 correctional facilities.

15 To address such lack of available alternatives to the
16 incarceration of juveniles, the Legislature declares it to be the
17 policy of the State of Nebraska to aid ~~local communities~~ in the
18 establishment of programs or services for juveniles under the
19 jurisdiction of the juvenile or criminal justice system and to
20 finance such programs or services with appropriations from the
21 General Fund and with funds acquired by participation in the
22 federal act. The purposes of the Juvenile Services Act shall be to
23 (1) assist in the provision of appropriate preventive,
24 diversionary, and dispositional alternatives for juveniles, (2)
25 encourage coordination of the elements of the juvenile services
26 system, and (3) provide an opportunity for local involvement in
27 developing community programs for juveniles so that the following
28 objectives may be obtained:

1 (a) Preservation of the family unit whenever the best
2 interests of the juvenile are served and such preservation does not
3 place the juvenile at imminent risk;

4 (b) Limitation on intervention to those actions which are
5 necessary and the utilization of the least restrictive yet most
6 effective and appropriate resources;

7 (c) Encouragement of active family participation in
8 whatever treatment is afforded a juvenile whenever the best
9 interests of the juvenile require it;

10 (d) Treatment in the community rather than commitment to
11 a youth rehabilitation and treatment center whenever the best
12 interests of the juvenile require it; and

13 (e) ~~Encouragement of and assistance to communities~~
14 Assistance in the development of alternatives to secure temporary
15 custody for juveniles who do not require secure detention.

16 All state agencies providing direct services to juveniles
17 shall coordinate their efforts and work with the commission,
18 members of the judiciary, and local political subdivisions in the
19 development of a comprehensive juvenile services plan and the
20 establishment and provision of programs or services in such plan.
21 Programs or services established pursuant to the Juvenile Services
22 Act and the federal act shall conform to the family policy tenets
23 prescribed in sections 43-532 to 43-534.

24 Sec. 4. Section 43-2404, Revised Statutes Supplement,
25 2000, is amended to read:

26 43-2404. The coalition shall make award recommendations
27 to the commission, at least annually, in accordance with the
28 Juvenile Services Act and the federal act for grants made under the

1 Commission Grant Program. Such grants shall be used to assist
2 communities in the implementation and operation of programs or
3 services identified in their comprehensive juvenile services plan,
4 including, but not limited to, programs for assessment and
5 evaluation, the prevention of delinquent behavior, diversion,
6 detention, shelter care, intensive juvenile probation services,
7 restitution, family support services, and community centers for the
8 care and treatment of juveniles in need of services.

9 Sec. 5. (1) To be eligible for participation in either
10 the Commission Grant Program or the County Juvenile Services Aid
11 Program, counties shall develop and adopt a comprehensive juvenile
12 services plan and submit such plan to the Office of Juvenile
13 Services in accordance with the federal act and rules and
14 regulations promulgated by the office. Such plan may be developed
15 by individual counties or by multiple counties. Programs or
16 services established by such plans shall conform to the family
17 policy tenets prescribed in sections 43-532 to 43-534.

18 (2) Counties may apply to the Office of Juvenile Services
19 for planning grants set forth in section 6 of this act to aid in
20 the development and adoption of the comprehensive juvenile services
21 plan.

22 (3) Any portion of the comprehensive juvenile services
23 plan dealing with administration, procedures, and programs of the
24 juvenile court shall not be submitted to the Office of Juvenile
25 Services without the concurrence of the presiding judge of the
26 court having jurisdiction in juvenile cases for the geographic area
27 to be served.

28 (4) The Office of Juvenile Services shall develop or

1 contract for the development of a statewide system to monitor and
2 evaluate the effectiveness of plans and programs receiving funds
3 from: (a) The Commission Grant Program and (b) the County Juvenile
4 Services Aid Program in preventing persons from entering the
5 juvenile justice system and in rehabilitating juvenile offenders.

6 Sec. 6. (1) There is created a separate and distinct
7 budgetary program within the Office of Juvenile Services to be
8 known as the County Juvenile Services Aid Program. The annual
9 appropriation for this program shall not exceed four million
10 dollars of General Funds. Funding acquired from participation in
11 the federal act, state General Funds, and funding acquired from
12 other sources which may be used for purposes consistent with the
13 Juvenile Services Act and the federal act shall be used to aid
14 counties in the establishment and provision of community-based
15 services for accused and adjudicated juvenile offenders.

16 (2) Up to five hundred thousand dollars of the combined
17 annual appropriation to the County Juvenile Services Aid Program
18 and funds acquired from participation in the federal act may be set
19 aside each year by the Office of Juvenile Services for planning
20 grants to counties to assist in the development of the
21 comprehensive juvenile services plan required under section 5 of
22 this act.

23 (3) The remaining amount of the annual appropriation to
24 the County Juvenile Services Aid Program shall be apportioned to
25 the counties as aid in accordance with the equitable formula
26 promulgated by the Office of Juvenile Services in rule and
27 regulation. Aid provided to a county under this subsection shall
28 be reduced by the cost to the state of care for juveniles from such

1 county who, as determined by a risk and needs assessment instrument
2 of the Office of Juvenile Services, do not meet the criteria
3 established by rule and regulation under section 43-406 that
4 identifies the types of offenders appropriate for youth
5 rehabilitation and treatment centers or more restrictive placement,
6 but who are in fact committed to the Office of Juvenile Services
7 for placement at a youth rehabilitation and treatment center or
8 more restrictive level placement.

9 (4) Funds provided to counties under the County Juvenile
10 Services Aid Program shall be used to assist counties in
11 implementation and operation of programs or services identified in
12 their comprehensive juvenile services plan, including programs for
13 assessment and evaluation, prevention of delinquent behavior,
14 diversion, detention, shelter care, intensive juvenile probation
15 services, restitution, family support services, and family group
16 counseling. No funds available under the County Juvenile Services
17 Aid Program shall be used for construction of secure detention
18 facilities, secure youth treatment facilities, or secure youth
19 confinement facilities.

20 (5) Counties shall provide a minimum of a forty percent
21 local match from nonstate sources for aid funds received from the
22 state under the County Juvenile Services Aid Program. Aid received
23 by a county under this section shall not be used to replace or
24 supplant any funds currently being used to support existing
25 programs for juveniles. Aid received under this section shall not
26 be used for capital construction or the lease or acquisition of
27 facilities.

28 Sec. 7. Section 43-2405, Revised Statutes Supplement,

1 2000, is amended to read:

2 43-2405. (1) An eligible applicant may apply to the
3 coalition for a grant under the Commission Grant Program in a
4 manner and form prescribed by the commission for funds made
5 available ~~under the Juvenile Services Act~~ from the Commission Grant
6 Program or the federal act. The application shall include a
7 comprehensive juvenile services plan. Grants shall be awarded to
8 eligible applicants at least annually within the limits of
9 available funds until programs are available statewide. ~~On~~
10 ~~request, the commission may provide technical assistance to~~
11 ~~eligible applicants to aid in the development and implementation of~~
12 ~~such plans.~~

13 (2) All plans shall comply with rules and regulations
14 adopted and promulgated by the commission pursuant to the Juvenile
15 Services Act ~~or the federal act.~~

16 ~~(3) Any portion of the plan dealing with the~~
17 ~~administration, procedures, and programs of the juvenile court~~
18 ~~shall not be submitted to the commission without the concurrence of~~
19 ~~the presiding judge of the court having jurisdiction in juvenile~~
20 ~~cases for the geographic area to be served.~~

21 ~~(4) Eligible applicants may give consideration to~~
22 ~~contracting with private nonprofit agencies for the provision of~~
23 ~~programs.~~

24 Sec. 8. Section 43-2406, Revised Statutes Supplement,
25 2000, is amended to read:

26 43-2406. From amounts appropriated to the commission for
27 the Commission Grant Program ~~the Juvenile Services Act~~ or funds
28 available through the federal act, the commission shall award

1 grants on a competitive basis to eligible applicants based upon
2 criteria determined by the commission.

3 Sec. 9. Section 43-2408, Revised Statutes Supplement,
4 2000, is amended to read:

5 43-2408. (1) Grants provided under ~~section 43-2406~~ the
6 Commission Grant Program may be used for developing programs ~~and~~
7 ~~for acquiring, developing, or improving local facilities for~~
8 ~~juveniles if the development and use of the facilities are~~
9 ~~prescribed in the approved plan under the Juvenile Services Act.~~

10 (2) No ~~funds awarded under section 43-2406~~ grants from
11 the Commission Grant Program shall be used to acquire, develop,
12 build, or improve local correctional facilities. ~~which are not~~
13 ~~specifically utilized for juveniles.~~

14 Sec. 10. Section 43-2409, Revised Statutes Supplement,
15 2000, is amended to read:

16 43-2409. (1) The coalition shall review periodically the
17 performance of eligible applicants participating under the ~~Juvenile~~
18 ~~Services Act~~ Commission Grant Program and the federal act to
19 determine if substantial compliance criteria are being met. The
20 commission shall establish criteria for defining substantial
21 compliance.

22 (2) Grants received by an eligible applicant under
23 ~~section 43-2406~~ the Commission Grant Program shall not be used to
24 replace or supplant any funds currently being used to support
25 existing programs for juveniles.

26 (3) Grants received under ~~section 43-2406~~ the Commission
27 Grant Program shall not be used for capital construction or the
28 lease or acquisition of facilities. ~~unless such uses have been~~

1 ~~approved by the commission.~~

2 Sec. 11. Section 43-2412, Revised Statutes Supplement,
3 2000, is amended to read:

4 43-2412. (1) Consistent with the purposes and objectives
5 of the Juvenile Services Act and the federal act, the coalition
6 shall:

7 (a) Make recommendations to the commission on the
8 awarding of grants under the Commission Grant Program to eligible
9 applicants;

10 (b) Identify juvenile justice issues, share information,
11 and monitor and evaluate programs in the juvenile justice system;

12 (c) ~~Develop or contract for the development of a~~
13 ~~statewide system to monitor and evaluate the effectiveness of plans~~
14 ~~and programs receiving grants under section 43-2406 in preventing~~
15 ~~persons from entering the juvenile justice system and in~~
16 ~~rehabilitating juvenile offenders;~~

17 ~~(d)~~ Recommend guidelines and supervision procedures to
18 the Office of Juvenile Services to be used to develop or expand
19 local diversion programs for juveniles from the juvenile justice
20 system;

21 (e) Prepare an annual report to the Governor, ~~and~~ the
22 Legislature, and the Office of Juvenile Services including
23 recommendations on administrative and legislative actions which
24 would improve the juvenile justice system;

25 (f) Ensure widespread citizen involvement in all phases
26 of its work; and

27 (g) Meet at least four times each year.

28 (2) Consistent with the purposes and objectives of the

1 acts and within the limits of available time and appropriations,
2 the coalition may:

3 (a) Recommend criteria to the Office of Juvenile Services
4 for administrative procedures, including, but not limited to,
5 procedures for intake, detention, petition filing, and probation
6 supervision;

7 (b) Recommend to the Office of Juvenile Services minimum
8 professional standards, including requirements for continuing
9 professional training, for employees of community-based,
10 youth-serving agencies;

11 (c) Recommend to the Office of Juvenile Services
12 curricula for and cause to have conducted training sessions for
13 juvenile court judges and employees of other community-based,
14 youth-serving agencies;

15 (d) Assist and advise state and local agencies in the
16 establishment of volunteer training programs and the utilization of
17 volunteers;

18 (e) Apply for and receive funds from federal and private
19 sources for carrying out its powers and duties; and

20 (f) Provide technical assistance to eligible applicants.

21 (3) In formulating, adopting, and promulgating the
22 standards, recommendations, and guidelines provided for in this
23 section, the coalition shall consider the differences among
24 counties in population, in geography, and in the availability of
25 local resources.

26 Sec. 12. Section 43-3503, Revised Statutes Supplement,
27 2000, is amended to read:

28 43-3503. (1) It is the intent of the Legislature to

1 encourage counties to develop a continuum of nonsecure detention
2 services for the purpose of enhancing, developing, and expanding
3 the availability of such services to juveniles requiring nonsecure
4 detention.

5 (2) A county may enhance, develop, or expand nonsecure
6 detention services as needed with private or public providers.
7 Grants from the Commission Grant Program and aid from the County
8 Juvenile Services Aid Program under the Juvenile Services Act and
9 the federal Juvenile Justice and Delinquency Prevention Act of 1974
10 may be used to fund nonsecure detention services. Each county
11 shall routinely review services provided by contract providers and
12 modify services as needed.

13 Sec. 13. It is the intent of the Legislature to
14 appropriate \$1,670,000 from the General Fund for FY2001-02 and
15 \$3,680,000 from the General Fund for FY2002-03 to the Department of
16 Health and Human Services, for Program No. 324, County Juvenile
17 Services Aid Program, for distribution to eligible counties as
18 determined by rules and regulations adopted and promulgated by the
19 Office of Juvenile Services pursuant to section 6 of this act.

20 Sec. 14. This act becomes operative on July 1, 2001.

21 Sec. 15. Original sections 43-2401 to 43-2406, 43-2408,
22 43-2409, 43-2412, and 43-3503, Revised Statutes Supplement, 2000,
23 are repealed.

24 Sec. 16. Since an emergency exists, this act takes
25 effect when passed and approved according to law.